

Utah Retirement Systems Fiduciary Overview

May 8, 2013

Trust Requirement

- To receive tax advantaged treatment a pension plan must be a trust and the funds must be for the exclusive benefit of beneficiaries and cannot be diverted to any other purpose. IRC 401(a).

□ “There is created a common trust fund known as the Utah State Retirement Investment Fund . . . The board shall act as trustees of the Utah State Retirement Investment Fund . . .”

□ U.C.A. §49-11-301

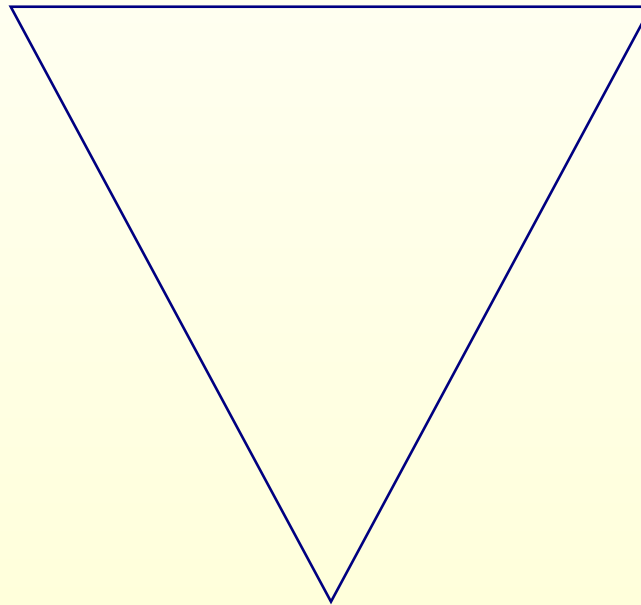
- “The assets of the USRIF are for the exclusive benefit of the members, participants and covered individuals and may not be diverted or appropriated for any other purpose.”
- U.C.A §49-11-301(3)

- Plato used a trust to finance his university in 400B.C.
- Roman law recognized trusts, even those benefiting non-citizens
- Trusts used in England in the Middle Ages to protect the property of knights

Trust Relationships

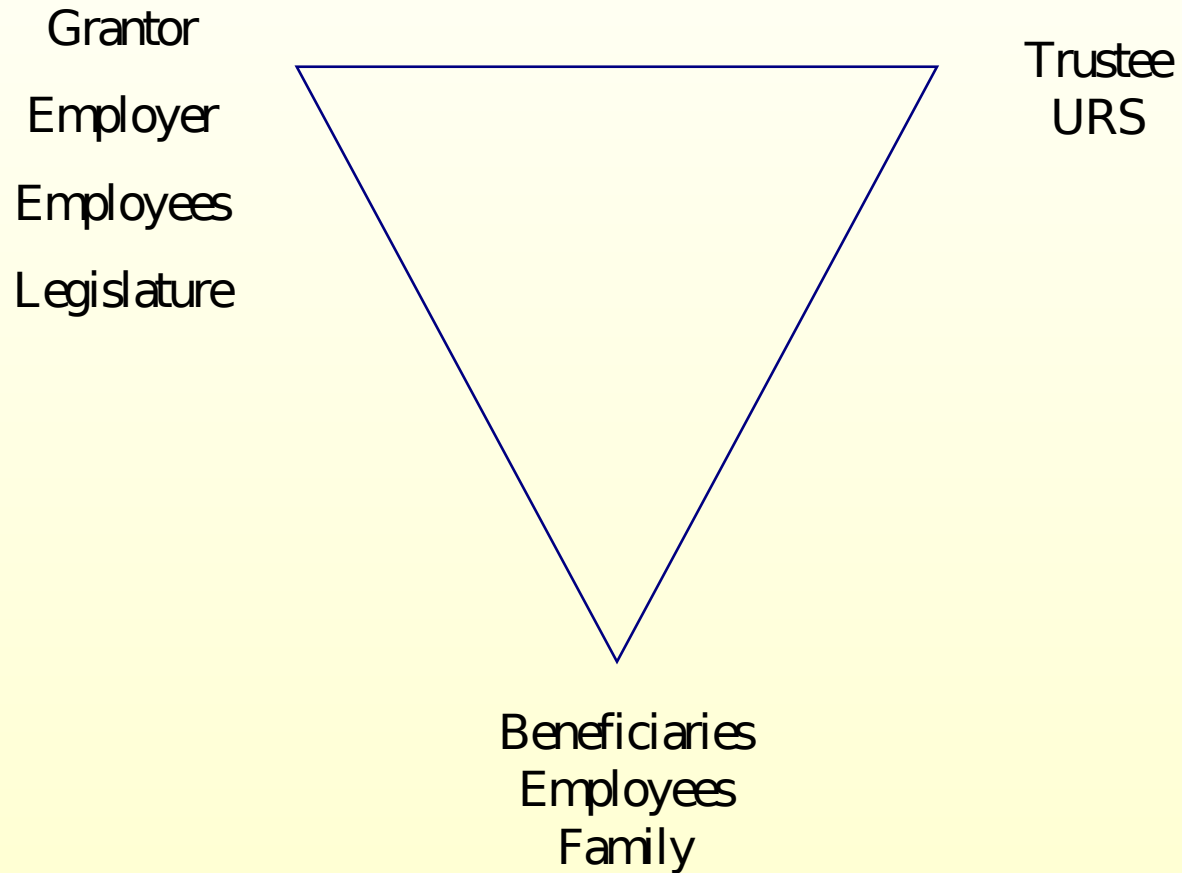
Grantor
(Settlor)
(Trustor)

Trustee



Beneficiaries

Trust Relationships



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- Approximately 460 Employers

- Includes the State, counties, cities, school districts, inter-local governmental entities and special service districts.

- Membership approximately 195,000
 - ~20% State Employees
 - ~40% Local Government Employees
 - ~40% School Employees

Duty of Loyalty

- “All trustees owe fiduciary duties to the beneficiaries of the trust. The duty of loyalty requires a trustee to act only for the benefit of the beneficiaries and to exercise prudence and skill in administering the trust. . . The United States Supreme Court has made clear that the value of trust lands cannot be used to further other legitimate governmental objectives, even if there is some indirect benefit to the public.

□ Trust lands are not to be used in subsidizing public programs no matter how meritorious the program. In short, trust beneficiaries do not include the general public or other governmental institutions, and the trust is not to be administered for the general welfare of the state.”

□ *NCPA v. Board of State Lands*, 869 P.2d 909 (Utah 1994)

Duty of Care

- “A trustee shall manage trust assets . . . by considering the purposes, terms, distribution requirements, and other circumstances of the trust. In satisfying this standard, the trustee shall exercise reasonable care, skill and caution.”
- U.C.A. §75-7-902(1)

□ “A trustee’s investment and management decisions respecting individual assets must be evaluated not in isolation but in the context of the trust portfolio as a whole and as part of an overall investment strategy having risk and return objectives reasonably suited to the trust.”

□ U.C.A. §75-7-902(3)

- The assets in the USRIF are not state funds or public funds, but are trust fund assets.
 - *Hansen v. USRB*, 652 P.2d 1332 (Utah 1982)
 - Attorney General Opinion 78-07

Independent State Agency

- U.C.A. §49-11-201 Creates the Retirement Office as an independent state agency
- URS does not conduct public business
- URS does not hold public funds

Utah State Retirement Board

- Seven member Retirement Board Created by U.C.A. §49-11-202
 - Four Investment Professionals
 - State Treasurer
 - One Public Employee Representative
 - One School Employee Representative

Membership Council

- ❑ Created by U.C.A. §49-11-202
- ❑ 13 members representing employer and employee groups
- ❑ Make recommendations to the Board and legislature regarding processes or benefits
- ❑ Education of groups

□ Important Principles

- Trust required for favorable tax treatment
- Duty of Loyalty – Exclusive Benefit Rule
- Duty of Care – Investment Process
- Trust fund assets are not public monies
- URS does not conduct public business